IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.101 OF 2005
IN
SUMMARY SUIT NO.2581 OF 2001

International Passage & Cargo Services (I) P.Ltd. ..Plaintiff

Vs.

Darpan Oriental Rugs ..Defendant

Mr.M.C.Shah i/b Mr.J.B.Singh for the plaintiff

Mr.Sunil Singh for the defendants

CORAM : S.U.KAMDAR, J
DATED : 16TH JANUARY, 2006

P.C.:

1. In the present suit, the claim is for Rs.55,957/- in respect of freight charges receivable by the plaintiff from the defendant. However, defendant has raised the defence in his reply that the amount is already been received by the plaintiffs from their consignee and has relied upon letter Ex.A dt.1.12.99. It is the case of the plaintiff that the company, West Coast Logistics P.Ltd. to whom the said letter is addressed and the plaintiff are different. However, defendant has pointed out that West Coast Logistics P.Ltd and

the plaintiff are the same. The said West Coast Logistics P.Ltd. is the principal of the plaintiff company and Mr.Rajan Nayar is a person concerned to the said transaction. He has also pointed out that said letter dt.1.12.99 is addressed in respect of Bill of Lading no.HN-00130. He also pointed out that affidavits have been affirmed by the said Rajan Nayar in the present suit and therefore they have received the money cannot be disputed.

2. I have considered the aforesaid matter and primafacie I am of the view that there is bonafide defence is raised by the defendant that the money is already been received by the plaintiff and reliance has been placed on the said letter dt.1.12.909. From the perusal of the fact it is clear that the said letter in fact pertains to the same bill of lading no.HN-00130 in respect of which suit claim is filed. I am therefore, of the opinion that triable issues arises in the present case. In that view of the matter, it cannot be stated that there is no defence in the present suit. Claim requires trial. Unconditional leave to defend is granted. Suit to be transferred to

the list of Commercial Causes. Written Statement or points of defence to be filed within four weeks from the today. Affidavits, list of documents to be filed within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on board of the learned Judge taking Commercial Causes.